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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-second session

# SUMMARY RECORD OF THE 1st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 31 July 2000, at 10.30 a.m.

Temporary Chairperson: Mr. HATANO

Chairperson: Ms. MOTOC

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The meeting was called to order at 10.45 a.m.

OPENING OF THE SESSION

1. The TEMPORARY CHAIRPERSON declared open the fifty-second session of the Sub-Commission on the Promotion and Protection of Human Rights. He began by announcing the deaths of Mr. Diaz Uribe and Mr. Zhong Shukong, two alternate members of the Sub-Commission, and asked those present to observe a minute of silence.

The members of the Sub-Commission observed a minute of silence in tribute to the memory of Mr. Diaz Uribe and Mr. Zhong Shukong.

2. The inter-sessional open-ended Working Group on Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights had met four times and had adopted by consensus a report entitled "Rationalization of the Work of the Commission" (E/CN.4/2000/112). He thanked Mr. Eide for having been good enough to replace him and represent the Sub-Commission at those meetings.

3. In addition to the annual report of the Sub-Commission on its fifty-first session (E/CN.4/2000/2-E/CN.4/Sub.2/1999/54), he had submitted to the Commission on Human Rights the report of the Chairperson of the Sub-Commission (E/CN.4/2000/87).

4. The Commission had completed the biennial election of the members of the Sub-Commission on 14 April 2000. Five experts of the Sub-Commission had been re-elected, namely, Mr. Alfonso Martínez, Mr. Eide, Mr. Weissbrodt, Mr. Yimer and Ms. Warzazi; two alternate members, Ms. Motoc and Mr. Yokota, had been elected as experts; six new experts had also been elected, namely, Mr. Ogurtsov, Mr. Park, Mr. Preware, Mr. Rodríguez Cuadros, Mr. Van Hoof and Ms. Zerrougui. He offered his warmest congratulations to them all.

5. With regard to the four standing working groups, three of them had met prior to the session; the fourth, the Working Group on Communications, was henceforth going to meet immediately after the session. The Working Group on Minorities had held its session from 22 to 26 May 2000. Given that it no longer comprised any members from the Group of African States, and at the request of the Secretariat, he had appointed Mr. Sik Yuen of Mauritius. The Working Group on Contemporary Forms of Slavery had met from 14 to 23 June. He had appointed Ms. Motoc of Romania as a member to represent the Group of Eastern European States in the said Working Group.

6. He had been invited to participate in the twelfth meeting of Chairpersons of United Nations Human Rights Treaty Bodies, which had taken place from 5 to 8 June 2000, but as he had been unavailable, he had asked Mr. Eide to attend on his behalf. He had also asked Mr. Eide to represent the Sub-Commission at the European "All different, all equal: from principle to practice" Conference which would take place in Strasbourg from 11 to 13 October 2000.

7. Ms. Daes, Chairperson of the Working Group on Minorities, had been to Mexico from 28 January to 14 February 2000. Her very extensive and deep-sighted report would be circulated to members shortly.

8. Finally, the Commission and the Economic and Social Council had approved the report of the inter-sessional open-ended Working Group of the Commission (E/CN.4/2000/112). It was recommended in that document that the Sub-Commission should remain at its present size (26 members), that members should continue to be elected by the Commission and that the duration of membership should not be limited in concrete terms. Furthermore, the Working Group had reached the conclusion that being employed in the public administration of a Government did not expressly make a candidate ineligible for membership of the Sub-Commission, but that Governments should be conscious of the need to maintain the independence of that body. The Working Group recommended that the Sub-Commission should cease to have a role in the 1503 procedure and that the Working Group on Communications should meet annually, immediately after the session of the Sub-Commission. Moreover, it specified that the Sub-Commission's primary function was to carry out studies and research in order to provide advisory opinions to the Commission, and that it could debate country situations without, however, adopting country-specific resolutions. In light of the limitations of the Sub-Commission's mandate, the Working Group recommended that the duration of the Sub-Commission's annual session should be reduced to three weeks and that the duration of the annual session of the Working Group on Contemporary Forms of Slavery should be reduced from eight days to five. On the other hand, the length of the annual session of the Working Group on Minorities remained unchanged and the Working Group on Indigenous Populations would continue to meet immediately prior to the Sub-Commission until a permanent forum for indigenous populations was established in the United Nations system.

STATEMENT BY MRS. ROBINSON, UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

9. Ms. ROBINSON (United Nations High Commissioner for Human Rights), referring to the follow-up meetings to the Beijing Conference and the Copenhagen Summit, said that the previous year had been eventful in the area of human rights. Those meetings were intended as a reminder of all that remained to be done if the commitments made were to be fulfilled.

10. With regard to international instruments, she welcomed the fact that, in October 1999, the General Assembly had adopted the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, and that two Optional Protocols to the Convention on the Rights of the Child had been adopted in 2000, concerning, respectively, the involvement of children in armed conflict and the sale of children, child prostitution and child pornography.

11. At its previous session, the Commission on Human Rights had taken a number of significant decisions, including the decision to appoint a special representative of the Secretary-General responsible for the situation of human rights defenders, a development which had been very well received by the international community and which underlined the vital importance of the activities of such defenders.

12. She also welcomed the decision taken by the Commission on Human Rights to appoint two new special rapporteurs, one on the right to adequate housing and the other on the right to adequate food, as well as the decision to assign the issues of structural adjustment and foreign debt to one independent expert. Likewise, she expressed her appreciation of the decision that had been taken to establish a permanent forum for indigenous peoples, which would be a body specifically responsible for dealing with the problems faced by indigenous communities.

13. The serious human rights violations that took place in many parts of the world continued to call for attention. In that regard, the Sub-Commission had a particular role to play. As a think-tank, the Sub-Commission must actively participate in the preparatory work for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, as it had done already by making a number of proposals regarding themes to be considered at the Conference and by carrying out several studies, such as those on affirmative action and the rights of non-citizens.

14. She urged members of the Sub-Commission to give priority to the consideration of the issues on its agenda relating to racial discrimination. In that regard, she recalled that the Working Group on Minorities had recommended that that year its Chairperson-Rapporteur should deliver a statement at the World Conference. She also recalled that the Committee on the Elimination of Racial Discrimination would soon consider Mr. Sik Yuen's working paper on the Roma.

15. She welcomed the Sub-Commission's work in the area of economic, social and cultural rights; its studies on the right to adequate food and the right to adequate housing had encouraged the Commission to create two new mandates on those issues. She also drew attention to the report of her Office on the follow-up meeting to the Copenhagen Summit as well as to the Report on Human Development, which was a crucial human rights document.

16. The impact of globalization and business on the enjoyment of human rights was an issue that had already been addressed by the Sub-Commission and she endorsed the nomination of Mr. Oloka-Onyango and Ms. Udagama as special rapporteurs on the matter. The sessional Working Group on the Working Methods and Activities of Transnational Corporations should meet again. The previous year, the Working Group had recommended that the effects of the activities of transnational corporations on the enjoyment of human rights should be considered and that a draft mechanism should be prepared for the implementation of a code of conduct for transnational companies. At the meeting organized recently in New York for the launch of the Secretary-General's Global Compact initiative, she had noted that a significant number of major corporations had made a public commitment to respect the nine principles in the Global Compact covering human rights, labour standards and the environment. Her Office had prepared a document for that meeting.

17. Recalling that the Secretary-General, in his report for the Millennium Assembly, had underlined the special needs of children and young people, she encouraged the Sub-Commission to continue to devote attention to that issue. In that regard, she welcomed the fact that the Working Group on Indigenous Populations had decided to consider the situation of indigenous

children and young people, and had invited the Rapporteur of the Committee on the Rights of the Child to speak at the session. Likewise, the Working Group on Contemporary Forms of Slavery would consider the question of trafficking in persons, particularly women and children, at next year's session.

18. Referring to the various changes being made that affected the functioning of the Sub-Commission, she said she was aware that members opposed the reduction in the duration of its session. The Commission's decision forced the Sub-Commission to concentrate its activities into a shorter period, but she was confident that that would not prevent it from continuing to carry out its role in an effective manner. Moreover, she hoped to receive some advice and constructive criticism from the Sub-Commission and to maintain a permanent dialogue between her Office and the Sub-Commission on matters of common concern.

ORGANIZATION OF WORK

(a) ELECTION OF OFFICERS

(b) ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (E/CN.4/Sub.2/2000/1 and Add.1)

Election of officers

19. The TEMPORARY CHAIRPERSON invited the Sub-Commission to propose candidates for the office of Chairperson.

20. Mr. KARTASHKIN said that the Group of Eastern European States, which had the honour once again to nominate a candidate for the office of Chairperson, proposed Ms. Motoc.

21. Mr. WEISSBRODT and Mr. GUISSÉ supported the nomination.

22. Ms. Motoc was elected Chairperson by acclamation.

23. Ms. Motoc took the Chair.

24. The CHAIRPERSON invited nominations for the three offices of Vice-Chairperson.

25. Mr. YIMER proposed Mr. Oloka-Onyango.

26. Mr. ALFONSO MARTINEZ proposed Mr. Rodríguez Cuadros.

27. Mr. WEISSBRODT proposed Ms. Daes.

28. Mr. Oloka-Onyango, Mr. Rodríguez Cuadros and Ms. Daes were elected Vice-Chairpersons by acclamation.

29. The CHAIRPERSON invited nominations for the office of Rapporteur.

30. Mr. FAN Guoxiang proposed Mr. Goonesekere.

31. Mr. Goonesekere was elected Rapporteur by acclamation.

Statement by the Chairperson

32. The CHAIRPERSON, after thanking Mr. Hatano for his valuable contribution to the work of the Sub-Commission as Chairperson of the fifty-first session, said that she was very honoured by her election to chair the fifty-second session of the Sub-Commission.

33. Since its creation in 1947, the Sub-Commission had contributed to the development of human rights protection, the status of which had evolved from a contestable ethical principle to that of universally accepted positive law. During the cold war, the Sub-Commission had had to accept a political dimension which had given rise to discussions of its legitimacy and its duties. In relation to States, the institutions and bodies responsible for "international governance" should define their spheres of action and ensure effective monitoring.

34. The Sub-Commission should not confine itself to the sterile role of an erudite academic. It should forge a link between human rights and political and social practice so that it would be listened to and respected to a greater extent, particularly by the Commission on Human Rights.

35. The Sub-Commission had shown that it was competent in the area of minorities and indigenous populations, as illustrated by the resolution recently adopted by the Economic and Social Council on the creation of a permanent forum for indigenous populations. The Sub-Commission should now, by rationalizing its working methods, reconsider some of its former themes such as the right to self-determination or the duties of the individual, and study the role played by non-State actors in the field of human rights. For the most part, the establishment of human rights had gone hand in hand with the emergence of the State and if, today, human rights were regressing at global level, it was largely due to the weakness of the rule of law. For that reason, the Sub-Commission should create closer links between the protection of human rights and the rule of law and study that issue in a political, social and moral context.

36. The Sub-Commission must avoid ideological discourse and empty and repetitive rhetoric, and adopt an overall perception of law, particularly in its economic and political dimension. The twentieth century had shown just how dangerous it was to try to re-educate humanity and create a new kind of man. Now that such utopian ideas had failed, the racial and gender discrimination prevalent in economic and cultural fields had to be analysed with greater precision.

37. As the philosopher Jan Patocka, founder of Charter 77, had said, a moral code should not exist simply to help society to function, but because mankind should be human. Respect for human rights was the only moral value that remained. For that reason, it had to be defended even more.

Adoption of the provisional agenda (E/CN.4/Sub.2/2000/1)

38. Mr. ALFONSO MARTINEZ proposed the addition of a paragraph (c) entitled "World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance" to agenda item 3. Mr. Pinheiro had made a significant contribution to the work of the Preparatory Committee for the World Conference and the Sub-Commission should therefore follow up that work.

39. Mr. PINHEIRO thanked Mr. Alfonso Martínez for his proposal.

40. With regard to the Sub-Commission's agenda he considered it unrealistic to leave it as it stood, given that the length of the session had been reduced to three weeks. Moreover, as the High Commissioner for Human Rights had recommended, priority should be accorded to certain issues. That would certainly not be an easy task but perhaps the Bureau could look into the matter.

41. He would like to know why the secretariat of the Sub-Commission had moved, thereby unduly complicating not only the work of the experts but also that of the secretariat itself.

42. Mr. KARTASHKIN said the Sub-Commission had to examine a large number of problems at its current session, some of which were already old. The Sub-Commission had rarely amended its agenda in order to address new issues raised by international developments. He noted that agenda item 12, entitled "Review of further developments in fields with which the Sub-Commission has been or may be concerned", comprised a dozen basic items that affected the international community and pointed out that it was usually taken up each year on the last day of the session, or even postponed to the following session. He proposed therefore that it should become agenda item 3 or 4, and that it should be subdivided into several points.

43. As the length of the session had been reduced by a week, he urged members of the Sub-Commission and representatives of non-governmental organizations to refrain from introducing political considerations into the debates, and instead to show objectivity in examining matters relating to human rights. Even if human rights raised problems that should be addressed by the international community, it was nevertheless a fact that some aspects of those rights fell within the exclusive jurisdiction of States, and a clear distinction had to be made between the two.

44. Reducing the duration of the session would inevitably affect the work of the Sub-Commission. He understood that the decision had been taken in the interest of economy, but noted that the length of the sessions of other committees had been extended. The Sub-Commission should therefore address the issue and state its views on the subject clearly.

45. Mr. EIDE pointed out that the provisional agenda had been prepared in 1996 and although - as Mr. Pinheiro had rightly noted - the situation had since evolved, it was impossible at the present stage to change it since that would involve unduly long discussions. It had to be accepted as it stood, possibly with amendments. In that connection he endorsed the proposal made by Mr. Martínez to add a paragraph (c) to agenda item 3.

46. Other questions should be examined by the Bureau under the relevant item of the organization of work. Moreover, thought should be given to revising the agenda for coming years since it no longer really reflected the new tasks of the Sub-Commission. It would, however, be unwise to do so at the current session.

47. Mr. ALFONSO MARTINEZ said that, in light of the 25 per cent reduction in the duration of its session, the Sub-Commission's agenda no longer corresponded to the current situation. He agreed with Mr. Eide that a substantive debate, was in order, and asked the Bureau to submit proposals regarding the agenda to the members of the Sub-Commission for consideration. He was in no way challenging the decision of the Commission on Human Rights, but simply felt that it was impossible in three weeks to cope with a workload that had previously required four.

48. Mr. RODRIGUEZ CUADROS said that, the agenda posed two fundamental problems, namely the excessive number of items for consideration and the reduction in the duration of the session. The ideal solution would be to reduce the agenda, giving priority to issues requiring urgent consideration. He agreed with Mr. Pinheiro and Mr. Eide that it was unrealistic to change the agenda, and therefore proposed that it should be adopted as it stood, but with emphasis being placed on certain priority matters. One of the Sub-Commission's tasks in the organization of work would be to consider a new agenda for the years to come, taking into account the evolution of the human rights situation in the world.

49. Mr. JOINET and Mr. FAN Guoxiang endorsed the proposals made by Mr. Martínez and Mr. Eide.

50. Ms. WARZAZI considered it premature for the secretariat to issue a draft timetable for the work of the Sub-Commission before it adopted its agenda.

51. Mr. KARTASHKIN, speaking on a point of order, said that he had not received the document referred to by Ms. Warzazi.

52. Ms. WARZAZI, supported by Mr. ALFONSO MARTINEZ, said that the Sub-Commission should, at the present stage, adopt the agenda on a provisional basis while awaiting suggestions from the Bureau, and postpone until the following day its final decision on the subject.

53. Ms. HAMPSON noted that there was a consensus on the need to keep the agenda unchanged. Nevertheless, she wanted to make two suggestions. The first concerned the level of priority to be attached to various items. In her view any agenda item under which a report was introduced should be given priority. Secondly, she noted that the Working Group on the Administration of Justice did not appear on the draft timetable mentioned by Ms. Warzazi; that oversight should be corrected.

54. Mr. LEBAKINE (Secretary of the Commission), replying to Mr. Kartashkin, said that the draft timetable for the Sub-Commission would be circulated the following day in plenary.

55. Mr. KARTASHKIN supported Ms. Hampson's suggestion. He hoped that the Bureau would indicate clearly how many sessions should be devoted to an examination of the reports submitted to the Sub-Commission.

56. Mr. PINHEIRO also supported Ms. Hampson's suggestion, but would like to know how the Bureau thought the Sub-Commission should proceed in order to satisfy the Commission. In point of fact, the Commission was asking the Sub-Commission to refrain not only from preparing country-specific draft resolutions but also from mentioning countries in thematic resolutions. If that was the case, wasn't there a risk of ending up with just empty words?

57. The CHAIRPERSON, at the suggestion of Mr. Eide, proposed that the Sub-Commission should adopt the provisional agenda contained in document E/CN.4/Sub.2/2000/1 with the amendment proposed by Mr. Alfonso Martínez.

58. The agenda, with the amendment proposed by Mr. Alfonso Martínez, was adopted on a provisional basis.

59. The CHAIRPERSON gave the floor to Mr. Simkhada, Chairman of the Commission on Human Rights.

STATEMENT BY THE CHAIRMAN OF THE COMMISSION ON HUMAN RIGHTS

60. Mr. SIMKHADA (Chairman of the Commission on Human Rights) said that when the Commission, at its fifty-sixth session, had considered agenda item 16, entitled "Report of the Sub-Commission for the Protection and Promotion of Human Rights", it had stressed the important role of the Sub-Commission and noted the efforts it had made to define its role and improve its methods of work. At its sixty-seventh meeting the Commission had adopted, without a vote, resolution 2000/83, reiterating its recognition of the valuable contribution made by the Sub-Commission to the human rights work of the United Nations and reaffirming how necessary it was for the mandate of the Sub-Commission to be clarified and adjusted. The debate on that issue, at the fifty-sixth session of the Commission, had been very short since its consideration had been entrusted to the inter-sessional Working Group on Enhancing the Effectiveness of the Mechanisms of the Commission, chaired by Ms. Anne Anderson. By decision 2000/109, the Commission had decided to approve the report of the inter-sessional Working Group in its entirety, contained in document E/CN.4/2000/112.

61. The Commission had in particular endorsed the Working Group's recognition that the Sub-Commission, as a body of independent experts, had added, through its analyses, an important dimension to the work of the Commission. Emphasis had been placed on the need to safeguard the independence of the Sub-Commission so as not to weaken the impact it could have through its studies and research and through the expert advice it provided to the Commission.

62. The Working Group's recommendation that the Sub-Commission should continue to be able to discuss situations not being dealt with in the Commission and that it should be allowed to consider urgent matters involving serious violations of human rights in any country had been agreed by consensus. On the other hand, it had been agreed that the Sub-Commission should not adopt country-specific resolutions, and it had been recommended that the Sub-Commission,

which was a think-tank, should refrain from negotiating and adopting thematic resolutions containing references to specific countries. The experts would therefore be able to use the extra time to undertake in-depth analyses, in complete independence, impartially and objectively.

63. The Working Group had stated, however, that the role of the Commission in its supervision and determination of priorities should be strengthened, and that the Commission should ensure that it gave clear directions to the Sub-Commission when entrusting it with tasks. The Commission therefore had a heavy responsibility, and participants had stated that they were willing to help the Sub-Commission in identifying issues on which it could carry out studies.

64. In conclusion, he emphasized the need to deepen the dialogue between the Commission and the Sub-Commission in order to avoid any misunderstandings. By making a concerted effort, the two bodies would contribute to the promotion and protection of human rights.

A MINUTE OF SILENCE IN TRIBUTE TO THE VICTIMS OF ALL FORMS OF VIOLATIONS OF HUMAN RIGHTS IN ALL REGIONS OF THE WORLD

65. Mr. LEBAKINE (Secretary of the Commission), in answer to a question put by Mr. Pinheiro, said that the offices of the Sub-Commission's secretariat had been moved to make room for those of the International Law Commission which was holding the second part of its session in Geneva.

66. Mr. PINHEIRO said it was unfortunate that priority had been given to the International Law Commission and emphasized that the offices in question must be returned to the Commission in 2000.

67. Mr. ALFONSO MARTINEZ drew attention to the fact that documents E/CN.4/Sub.2/2000/19, 20, 22, 26, 28 and 31 had been issued in English but not in Spanish; that was contrary to the General Assembly's decisions on documentation.

68. Mr. LEBAKINE (Secretary of the Commission) explained that the documents had been translated into Spanish but not yet been distributed.

69. Mr. SIK YUEN, recalling that in 1999 the 26 members of the Sub-Commission had been obliged to deal with administrative formalities in premises very far away, asked whether all formalities could now be coped with on the spot.

The meeting rose at 1.10 p.m.